

I. SUMMARY OF NEW GROUNDS OF REJECTIONS

Claims 1-5, 7-10, 15-17, and 20-24 were rejected under 35 U.S.C. §102(e) as allegedly anticipated by Harrison et al. Claim 6 was rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Harrison et al. in view of Day II et al. Claims 11-16 and 25-26 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Harrison et al. in view of Baum et al. Claims 18 and 19 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Harrison et al. in view of Nessett et al.

II. DECLARATION OVERCOMING REJECTIONS UNDER 35 U.S.C. §§102-103

When any claim of an application is rejected, the inventor of the subject matter of the rejected claim may submit an appropriate declaration to establish invention of the subject matter of the rejected claim prior to the effective date of the reference on which the rejection is based. 37 C.F.R. §1.131(a).

Attached is a Declaration of Prior Invention executed by the inventor and filed under 37 C.F.R. §1.131. In such a declaration the inventor may establish either reduction to practice prior to the effective date of the reference, or conception of the invention prior to the effective date of the reference coupled with due diligence from prior to said date to a subsequent reduction to practice or to the filing date of the application. 37 C.F.R. §1.131(b). Applicant elects to establish the former—actual reduction to practice prior to September 10, 1999, which is the effective date as a reference of Harrison et al.

Exhibit 1 to the Declaration is a redacted copy of an internal invention disclosure form, entitled “Patent Idea Details for Idea # 41685.”¹ Attached are also Document Numbers ENG-23055, ENG-25670, ENG-28376, and ENG-29746, which are referenced by Exhibit 1.

¹ The invention disclosure form identifies three individuals. In the course of preparing the application it was determined that only Mr. Fan Jiao qualified as an inventor.

The invention disclosure form of Exhibit 1 supports the statements made in the Declaration.

Although Exhibit 1 and its supporting documents are redacted, their actual dates are long prior to September 10, 1999. Decl. of Prior Invention, ¶4; MPEP 715.07, p.700-231. Thus, the Declaration and Exhibit 1 establish that an embodiment of the invention was actually reduced to practice, by showing that a written description of an embodiment of the invention existed and that products embodying the invention were sold prior to September 10, 1999.²

An embodiment of the invention was included in products that were released for commercial sale prior to September 10, 1999. Decl. of Prior Invention, ¶6-7. Standing alone, this fact establishes actual reduction to practice prior to September 10, 1999. Additionally, the invention disclosure form of Exhibit 1 states:

“Cisco Use: A. CNS Client for IOS is being released in IOS 12.0.4. It is part of the following images/platforms:...
B. CNS for IOS II is being developed for IOS 12.0.5 release
C. CNS for IOS III is in part of IOS release road map”

In the above passage, “CNS” refers to Cisco Network Services and “IOS 12.04” and “IOS 12.05” refer to Cisco’s Internet Operating System 12.04 and Internet Operating System 12.05, respectively. See Decl. of Prior Invention, ¶5. Thus, the invention disclosure form specifies products that incorporate an embodiment of the invention.

Further, the Declaration avers that the date that these products were released for sale was prior to September 10, 1999. Decl. of Prior Invention, ¶4. The commercial sale of a product establishes that the product was built and in working condition. Therefore, the invention disclosure form in combination with the Declaration further establishes that an

² Since reduction to practice is a legal conclusion, the Declaration attests only to facts that support the legal conclusion that the invention was reduced to practice prior to September 10, 1999, while this reply specifies how those facts establish a legal conclusion that the invention was actually reduced to practice prior to September 10, 1999.

embodiment of the invention was reduced to practice prior to September 10, 1999, in accordance with 37 CFR §1.131(b).

Since the effective date of Harrison as a reference is September 10, 1999, the Declaration is sufficient to require the Office to remove Harrison et al. as a reference and to overcome a rejection under 35 U.S.C. § 102(e) or 35 U.S.C. § 103(a). Since all of the rejections of the Office Action rely on Harrison et al. alone or in combination with another reference, all the rejections over art should be removed.

III. CONCLUSIONS

For the reasons set forth above, all pending claims are patentable over the art of record. Accordingly, allowance of all claims is hereby respectfully solicited.

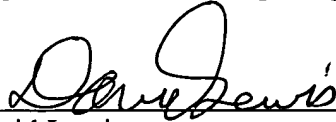
The Examiner is respectfully requested to contact the undersigned by telephone if it is believed that such contact would further the examination of the present application.

No extension fee is believed to be due. However, to the extent necessary, Applicants petition for an extension of time under 37 C.F.R. § 1.136. The Commissioner is authorized to charge any fee that may be due in relation to this application to our Deposit Account No. 50-1302.

Respectfully submitted,

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